



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



Lakeshore Realty Trust
c/o Robert E. Gayner
PO Box 300
Alton, NH 03809

Re: Wetlands File No. 2001-01294
Lake Winnepesaukee, Alton, NH

**ADMINISTRATIVE ORDER
No. WD 04-22**

September 24, 2004

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Lakeshore Realty Trust pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. Lakeshore Realty Trust is a real estate trust established in the State of New Hampshire having a mailing address of PO Box 300, Alton, NH 03809.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 482-A, the Department of Environmental Services ("DES") regulates dredging, filling, and construction in or on any bank, flat, marsh, wetland or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I, the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. Lakeshore Realty Trust is the owner of land located at 1 Temple Dr, Alton, more particularly identified as tax map 53, lot 3 ("the Property").
3. On April 26, 2002, DES issued Wetlands and Non-Site Specific Permit # 2001-01294 ("the Permit") authorizing Lakeshore Realty Trust to "[d]redge 16 cu yds from 275 sq ft of lakebed and excavate 572 sq ft of bank along 52 linear ft of shoreline to construct a 38 ft x 38 ft dug-in, two slip boathouse adjacent to an 8.5 ft x 85 ft wharf and a 7 ft x 70 ft wharf on 727 ft of frontage on Lake Winnepesaukee."
4. Condition 4 of the Permit provides that "[t]he boathouse shall be a single-story structure; ridgeline not to exceed 15 ft in height (elevation 519.32) above normal high water."
5. On April 1, 2004, DES authorized architectural modifications to the proposed boathouse but did not amend the Permit because review of the proposal found that the "proposed alterations

will not require any change in the footprint or impacts shown on the overview and cross section plans approved by Permit # 2001-01294."

6. On September 21, 2004, DES personnel inspected the Property and found the following:

(a) A 38 ft by 38 ft dug-in boathouse has been constructed with a 2-part roof. The first section has a flat concrete roof situated at approximate elevation 519. The second gabled section begins 14 feet 6 inches landward and extends upward to approximate elevation 538.

(b) The interior of the second gabled section was open to the boat slips below, but the installation and location of doors, windows and ledger board is consistent with structural needs for the construction of a floor and stairs for a full second story.

D. DETERMINATION OF VIOLATIONS

1. Lakeshore Realty Trust has violated RSA 482-A by violating Condition 4 of the Permit by constructing a boathouse extending upward to elevation 538, in excess of the dimensions approved by DES.

E. ORDER

Based on the above findings, DES hereby orders Lakeshore Realty Trust as follows:

1. Immediately cease all activities on the Property related to the construction of those portions of the boathouse higher than 15 feet above normal high water, or above elevation 519.32.
2. Within 30 days of this order remove of all portions of the structure, located higher than 15 feet above normal high water, or above elevation 519.32.
3. Within 45 days of this order submit photographs documenting that all portions of the structure located higher than 15 feet above normal high water, or above elevation 519.32, have been removed.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, other than appeals, to DES as follows:

Darlene Forst
DES Water Division
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095
Fax: (603) 271-6588
email: dforst@des.state.nh.us

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the New Hampshire Wetlands Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days

of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Filing an appeal or motion for reconsideration of the Order will not automatically relieve you of your obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 482-A provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Lakeshore Realty Trust remains obligated to comply with all applicable requirements. DES will continue to monitor Lakeshore Realty Trust's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Carroll County Registry of Deeds so as to run with the land.


Harry T. Stewart, P.E., Director
Water Division


Michael P. Nolin, Commissioner

Certified Mail/RRR: 7099 3400 0003 0696 0596

cc: Gretchen R. Hamel, DES Legal Unit Administrator
James Martin, DES Public Information Officer
Jennifer Patterson, Senior Asst. Attorney General, EPB, NHDOJ
Belknap County Registry of Deeds
Alton Selectmen
Alton Conservation Commission